

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

JAMES BLANTON,)
Petitioner,)
vs.) Case No. 4:05CV00936 AGF
STATE OF MISSOURI,)
Respondent.)

MEMORANDUM AND ORDER

This matter is before the Court on Petitioner's motion for appointment of counsel.

Petitioner, a Missouri prisoner, filed this action pro se for federal habeas relief under 28 U.S.C. § 2254. "[T]here is neither a constitutional nor statutory right to counsel in habeas proceedings; instead, it is committed to the discretion of the trial court." Morris v. Dormire, 217 F.3d 556, 558 (8th Cir. 2000) (quoting McCall v. Benson, 114 F.3d 754, 756 (8th Cir. 1997)). In deciding whether to appoint counsel, the district court properly considers "the factual and legal complexity of the case, and the petitioner's ability both to investigate and to articulate his claims without court appointed counsel." Id. Upon review of the file, the Court concludes that the appointment of counsel is not necessary in this case.

Accordingly,

IT IS HEREBY ORDERED that Petitioner's motion for appointment of counsel is
DENIED. [Doc. #2]

Audrey G. Fleissig
AUDREY G. FLEISSIG
UNITED STATES MAGISTRATE JUDGE

Dated this 1st day of July, 2005.